C.S.100/—

SINGLE BE...

P.R. No. 153/06
Presented by Shri Vinod Deshmukh
dated 10/1/06

V.T. 3

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W. P. No. 153 /2006

PETITIONER Jamuna Prasad Shende
S/o Late Bajrang Das aged about 58 years, R/o Shankar Nagar, Moti Chowk, Durg (C.G.)

VERSUS

RESPONDENTS :

1. The State of C.G.
   Through :- Its Secretary
   Deptt. of Co-operative Society
   Mantralay, RAIPUR (C.G.)

2. Registrar, Co-operative Society
   RAIPUR (C.G.)

3. Joint Registrar,
   O/o Joint Registrar,
   Co-operative Society, Raipur Division,
   RAIPUR (C.G.)

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"PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA"

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

W.P.No. 154/2006

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	5-4-2006 Shri P.S. Koshy with Shri Vinod Deshmukh, counsel for the petitioner. Shri Satish Gupta, Dy. Govt. Advocate for the State. Heard. This petition under Articles 226/227 of the Constitution of India has been filed by the petitioner on the ground that he has been acquitted from the criminal case and after acquittal he has made various representations before the competent authority of respondents for his reinstatement, but till date the respondents have not taken any action on the representations of the petitioner. The facts of the case are that the petitioner was initially appointed as Sub-Auditor in the office of Assistant Registrar, Co-operative Society, Durg on 9-10-1973 (Annexure-P/1). Thereafter he was promoted as Senior Co-operative Inspector and posted in the office of the Assistant Registrar Co-operative Society (Audit Board), Raipur, vide order dated 13-7-1998 (Annexure-P/2). While working in Raipur, the petitioner was suspended vide order dated 28-8-2002 (Annexure-P/3) under Rule-9 of M.P. Civil Services (Classification, Control and Appeal) Rules, 1996 on account of filing of challan (charge sheet) by Lokayukta, Raipur, in Special Criminal Case No.14/2002 for committing offence under Sections 7, 13(1)(D) and 13(2) of the	

[पीछे देखिये

Advocate for the state, orders that,

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक W.P.No. 154/2006 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Prevention of Corruption Act, 1988. After completion of trial, the petitioner has been acquitted vide order dated 28-9-2005 (Annexure-P/4) by the Special Judge & First Additional Sessions Judge, Raipur.

Learned counsel for the petitioner submitted that after the judgment of acquittal, the petitioner forwarded the copy of judgment to the concerned authorities, but the suspension order has not been revoked and the petitioner has not been reinstated.

It is settled position of law that where a person has been removed from service solely on the ground that a criminal case was instituted against him and in the said criminal case, the person is acquitted, the respondents are duty bound to reinstate the petitioner in service.

Learned counsel for the petitioner placed reliance on a decision of this Court in the case of Hukum Chand Banjare –v- the State of Chhattisgarh and others (W.P. No. 859/2004). Para 2 of the said judgment is relevant and quoted below:-

> *"(2) Having heard learned counsel for the parties, I find an error apparent on the face of the record for since the Deputy Director, Panchayat had removed the petitioner from service solely on the ground that a criminal case was launched against him and in the said criminal case the petitioner is honorably acquitted, in terms of settled law, the respondents*

[पीछे देखिये

Advocate for the state, orders that,

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

W.P.No. 154/2006

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

are duty-bound to reinstate the petitioner into service and the reason now given by them not to reinstate the petitioner, is totally unjustified. In that view of the matter, I allow the writ petition, quash the impugned order and direct the respondents to reinstate the petitioner into service with all consequential and attendant benefits. No costs."

Similar view has been taken by Hon'ble the Apex Court in *Union of India and others vs. Jaipal Singh 2004 (1) SCC 121,* by Gujrat High Court in the case of *Mukesh Kumar Premshankar Joshi vs. State of Gujrat and another 2004 LAB.I.C. 271* and also by this Court in the case of *Sunder Lal Dhritlahre vs. State of Madhya Pradesh and others (W.P.No.2583/2001).* All these cases have been relied upon by this Court in the decision in the case of *Ramkishan vs. Bharat Sanchar Nigam Limited & Others (W.P.No.141/2003.*

In view of the above judgments and having considered the facts and circumstances of the case, material on record as mentioned hereinabove, and since the petitioner has been acquitted, the respondents are directed to reinstate the petitioner into service with all consequential and attendant benefits.

In the result the petition is allowed. No costs.

Sd/-
Fakhruddin
Judge

[पाछ दाखय

Gowri/P.

24.4.06

Advocate for the State, [illegible]